

¹ 5 U.S.C. § 8101 *et seq.*

reported that as he reached and twisted to place employee applications into his cabinet drawer, he heard a pop and felt a stinging pain in his right side near his hip. Appellant stated that the pain ran down both of his legs. OWCP accepted the claim for a displaced lumbar disc without myelopathy and lumbar sprain on March 22, 2012.

Appellant received medical treatment for his accepted condition, including physical therapy.

In an undated statement, received on September 28, 2013, appellant explained: "Since the job/work injury to my back on 2/22/2012, I have been using my arms to lift myself from a seated position. Additionally, I do the same when I position myself to seat. This has been going on since the original injury on 2/22/2012. The pain in my left arm started a few months after the injury and continued to get worse." He continued in the same letter: "On July 16, 2013 the pain became severe to the point that I had to seek medical care. I have also noticed that I am developing pain in my right arm but not near as bad as in my left arm. The pain continues to get worse even when I try not to use my arms to position myself to sit and rise from a seated position, however, the pain in my back gets worse if I don't use my arms."

Appellant submitted several medical reports in support of his claim of consequential elbow injury.

A left arm venous doppler ultrasound dated July 17, 2013, noted "unremarkable" findings of the left upper extremity. An x-ray report dated August 16, 2013 noted mild degenerative changes in the coronoid process and found no fracture or displacement of the fat pads of the elbow.

In a letter of September 25, 2013, Dr. Ankit Patel, Board-certified in physical medicine and rehabilitation, related that appellant's elbow condition "is related to the back pain due to overuse of the elbows while supporting himself from getting up from a sitting position."

On November 1, 2013 OWCP prepared a statement of accepted facts (SOAF) and referred the case record to its district medical adviser (DMA) for an opinion as to whether appellant's left elbow condition should be accepted as a consequential injury. In a report dated November 7, 2013, the DMA reported that there was inadequate information in the record to support the acceptance of an elbow condition as employment related. He explained that the condition was vague and the pathophysiology was unclear and permanency was not apparent.

Appellant further informed OWCP of left elbow complaints in a letter dated January 10, 2014. He explained his belief that his left arm had been injured through overuse. "I use my arms daily since the date of injury to get up from a seated position and to sit from a standing position. *Over time my arms have become weak and more painful, especially, at night. It is noted; my current problem did not exist until several months into my back injury. Currently the condition with both arms has gotten worse.*" (Emphasis in the original).

By decision dated April 14, 2014, OWCP denied appellant's request to expand his claim to include his left elbow condition as a consequential injury resulting from appellant's employment-related back injury of February 22, 2013. It found that appellant had not

established a causal connection between his claimed employment elbow injury and factors of his employment.

Appellant requested reconsideration of the April 14, 2014 decision on May 27, 2014.

In support of his request for reconsideration, appellant submitted a March 26, 2014 report from Dr. Gregory Powell, a Board certified in surgeon, who discussed appellant's back condition and his participation in nonsurgical treatment programs. Dr. Powell recommended that appellant be evaluated for facet joint injections to his lumbar spine. In an operative note dated April 18, 2014, he detailed the injections he performed to appellant's low back.

OWCP also received a number of progress reports from Dr. Tom Mayer, a Board-certified orthopedic surgeon, dating from March 26, 2014. These reports related his continuing treatment of appellant's back condition. In a report dated September 19, 2014, Dr. Mayer determined that appellant could return to full duty without restrictions.

By decision dated June 1, 2015, OWCP reviewed the merits of the claim and denied modification of its prior decision. It found that appellant had not established through well-reasoned medical opinion evidence that he had a diagnosed left elbow condition which was a consequence of his accepted work injury.

LEGAL PRECEDENT

The general rule respecting consequential injuries is that, when the primary injury is shown to have arisen out of and in the course of employment, every natural consequence that flows from the injury is deemed to arise out of employment unless it is the result of an independent intervening cause, which is attributable to the employee's own intentional conduct. The subsequent injury is compensable if it is the direct and natural result of a compensable injury. With respect to consequential injuries, the Board has stated that, where an injury is sustained as a result of an impairment residual to an employment injury, the new or second injury, even though not employment related, is deemed, because of the chain of causation, to arise out of and in the course of employment.²

An employee has the burden to establish that any specific condition for which compensation is claimed is causally related to the employment injury.³ Part of a claimant's burden of proof is the submission of rationalized medical evidence, based on a complete and accurate factual and medical background, showing causal relationship.⁴ Neither the fact that the condition became apparent during a period of employment, nor the belief that the condition was caused or aggravated by employment factors or incident is sufficient to establish causal relationship.⁵

² S.S., 59 ECAB 315 (2008).

³ William F. Gay, 50 ECAB 276 (1999).

⁴ Kenneth R. Love, 50 ECAB 193 (1998).

⁵ D.E., 56 ECAB 448 (2007).

A physician's opinion on causal relationship must be based on a complete factual and medical background of the claimant. To be considered rationalized the opinion must be expressed in terms of a reasonable degree of medical certainty and must be supported by medical rationale, explaining the nature of the relationship between the diagnosed condition and the claimant's specific employment factors.⁶

ANALYSIS

By decision dated June 1, 2015, OWCP denied modification of its April 14, 2014 denial of appellant's claim for a consequential left elbow condition resulting from his accepted injury to his lumbar spine. Appellant asserts that a consequential injury was established. The Board finds that appellant has not met his burden of proof to establish a consequential left elbow injury.

In support of his claim, appellant relies upon the opinion of Dr. Patel. Dr. Patel's report diagnosed appellant with "pain" in his elbow and arms. The Board, however, has held that pain is a symptom of some other condition, not a diagnosis.⁷ Furthermore, the September 25, 2013 report of Dr. Patel does not contain a rationalized opinion of why and how appellant's elbow condition is causally related to his accepted low back condition. As noted, a consequential injury is a direct and natural result of a compensable injury. Dr. Patel did not provide a medical explanation as to how appellant's left elbow complaints, which arose over a year after the injury, were a result of the accepted back injury. His report is therefore of limited probative value.

The July 16, 2013 report of Dr. Sharp contains no opinion regarding the cause of appellant's left arm pain. The July 17, 2013 venous doppler ultrasound characterizes appellant's results regarding the left arm as "unremarkable." The August 16, 2013 x-ray found mild degenerative changes in the coronoid process of the elbow, but offered no opinion regarding the cause of this condition. Medical evidence that does not offer any opinion regarding the cause of an employee's condition is of diminished probative value on the issue of causal relationship.⁸ These reports are therefore of diminished probative value in establishing that appellant's alleged left elbow condition is consequential to his accepted injury.

Similarly, OWCP received a number of reports from Dr. Mayer. However Dr. Mayer's reports focused on his treatment of appellant's back condition and offered no opinion regarding his claimed left elbow condition. These reports therefore also lack probative value to establish appellant's left elbow condition as a consequence of the accepted back condition.

Appellant's statements that his left elbow condition is related to his employment-related low back condition do not constitute medical opinion evidence.⁹ In this case he has failed to present rationalized medical evidence to demonstrate that his left elbow pain is consequential to his accepted low back injury.

⁶ *Steven S. Selah*, 55 ECAB 169 (2003).

⁷ *E.M.*, Docket No. 14-1520 (issued June 18, 2015).

⁸ *See D.S.*, Docket No. 15-1930 (issued January 20, 2016); *see also Jaja K. Asaramo*, 55 ECAB 200 (2004).

⁹ *H.A.*, Docket No. 13-1265 (issued November 4, 2013).

Appellant may submit new evidence or argument with a written request for reconsideration to OWCP within one year of this merit decision, pursuant to 5 U.S.C. § 8128(a) and 20 C.F.R. §§ 10.605 through 10.607.

CONCLUSION

The Board finds that appellant has failed to meet his burden to establish a left elbow condition as a consequential injury to his accepted February 22, 2012 low back injury.

ORDER

IT IS HEREBY ORDERED THAT the decision of the Office of Workers' Compensation Programs' decision dated June 1, 2015 is affirmed.

Issued: March 14, 2016
Washington, DC

Christopher J. Godfrey, Chief Judge
Employees' Compensation Appeals Board

Patricia H. Fitzgerald, Deputy Chief Judge
Employees' Compensation Appeals Board

Valerie D. Evans-Harrell, Alternate Judge
Employees' Compensation Appeals Board